

FISHERIES TREATY WITH CERTAIN PACIFIC ISLAND STATES

OCTOBER 22 (legislative day, OCTOBER 16), 1987.—Ordered to be printed

Mr. PELL, from the Committee on Foreign Relations,
submitted the following

REPORT

[To accompany Treaty Doc. 100-5]

The Committee on Foreign Relations, to which was referred the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, with annexes and agreed statement, signed on April 2, 1987, having considered the same, reports favorably thereon without amendment and recommends that the Senate give its advice and consent to ratification thereof.

PURPOSE

The purpose of this treaty and its annexes is to eliminate serious foreign policy irritants caused by differing jurisdictional claims over the tuna fisheries of the South Pacific. It establishes a mechanism whereby regional fishing licenses will be provided to the U.S. tuna industry.

BACKGROUND

Most of the island states of the South Pacific utilize an archipelago concept to define their national boundaries. This concept allows a group of islands that form an intrinsic geographical, economic, and political entity to define its national boundary by connecting its outermost islands with a series of archipelagic construction lines. These lines are then used as baselines from which to measure a territorial sea and national economic or resource zone. Consequently, huge areas of the Pacific Ocean are being claimed as the economic resource zones of various island nations.

All of these island states wish to exert resource jurisdiction over all the fisheries, including tuna, within their exclusive economic

zones. This desire conflicts with the U.S. position that tuna is a highly migratory species and should not be regulated by coastal states. As a result, there have been seizures of U.S. tuna vessels which resulted in U.S. retaliatory trade embargoes. This cycle of conflict has undermined our relations with a number of South Pacific nations providing the U.S.S.R. with an opportunity to exploit this problem through bilateral fishery agreements. The Soviet Union negotiated a fishing arrangement with Kiribati in 1985, and an agreement with Vanuatu in 1987.

The United States has sought to resolve this dispute and secure agreed terms of access for the U.S. tuna fleet by initiating negotiations with 16 Pacific Island countries for a regional commercial licensing arrangement. On April 2, 1987, the United States signed a treaty with 14 nations (Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Papua New Guinea, Solomon Islands, Tuvalu, Vanuatu, and Western Samoa. The U.S. negotiators hope that Tonga and Palau will sign at a later date.

MAJOR PROVISIONS

The following is a brief summary of the treaty, its three annexes and the related economic assistance package:

Article 3 of the treaty and Annex I and II set out terms and conditions for U.S. flag tunaboats to purchase licenses for access to some 10-million square miles of the South Pacific Ocean, primarily within the 200 nautical mile zones of the island states.

Up to 50 licenses per year will be made available as follows:

Year 1: Up to 40 licenses will be granted at a base price of \$50,000. Once 40 licenses have been issued, 10 additional will be sold at \$60,000 a piece.

Subsequent years: License prices will be indexed to the price of tuna, but will not drop below \$50,000 each.

The U.S. tuna industry has guaranteed a lump-sum payment of \$1.75 million for 35 licenses in the first year of the treaty.

Industry license payments are comparable to those called for under the Eastern Pacific Ocean Tuna Fishing Agreement (EPOTFA).

The industry has also agreed to provide technical assistance valued at \$250,000 annually for 5 years.

In addition to the licensing fees, the United States has agreed to a 5-year economic assistance package which consists of:

- \$10 million annually in the form of cash transfers;
- \$9 million of this amount will be divided among participating states on the basis of tuna catch; and
- \$1 million will be earmarked for development projects proposed through the Forum Fisheries Agency and approved by AID.

No licenses will be granted until the AID funds are paid.

COMMITTEE ACTION

On September 23, 1987, the committee received from the Department of State Executive Communications 1904 transmitting certain technical changes in the treaty text that was submitted to the Senate.

On September 24, 1987, the committee held a public hearing on Treaty Document 100-5. Testimony was received from the following individuals: (1) The Honorable John Breaux, U.S. Senator from Louisiana; (2) The Honorable Fofo I.F. Sunia, Delegate, American Samoa; (3) The Honorable Ben Blaz, Delegate, Guam; and (4) The Honorable Edward J. Derwinski, Under Secretary of State for Security Assistance, Science and Technology.

The committee considered the treaty at its business meeting on October 21, 1987, and voted 19-0 to report it favorably to the Senate for its advice and consent. Ayes: Senators Pell, Biden, Sarbanes, Cranston, Dodd, Kerry, Simon, Sanford, Adams, Moynihan, Helms, Lugar, Kassebaum, Boschwitz, Pressler, Murkowski, Tribble, Evans, and McConnell.

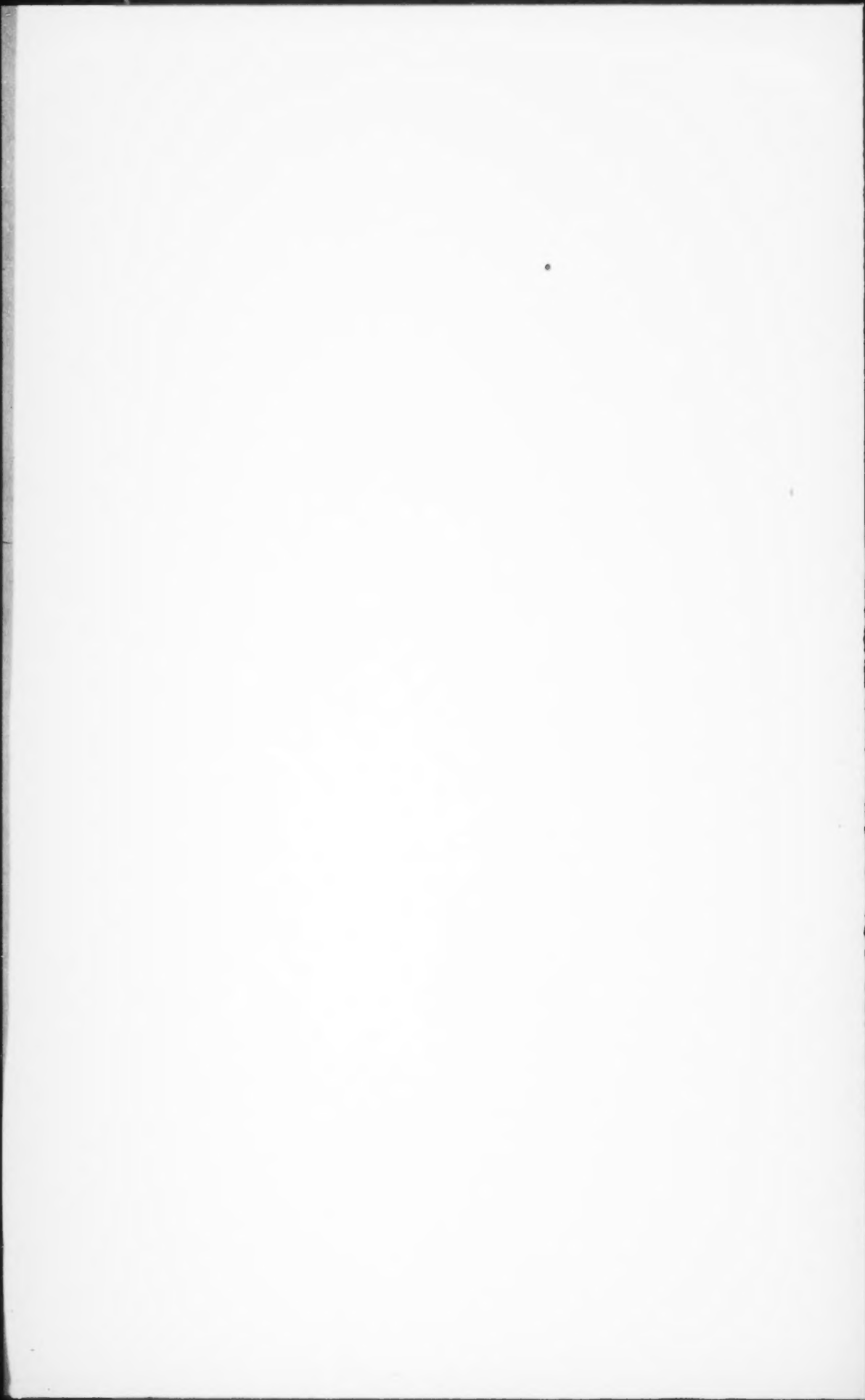
ENTRY INTO FORCE

This treaty shall enter into force for any State ratifying or acceding after the entry into force of this treaty on the thirtieth day after the date on which its instrument of ratification or accession is received by the depositary.

At the present time, 8 nations have ratified the treaty—Australia, Cook Islands, Federated States of Micronesia, Fiji, Marshall Islands, Nauru, Papua New Guinea, and Tuvalu.

TEXT OF RESOLUTION OF RATIFICATION

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of United States of America, with annexes and agreed statement, signed on April 2, 1987.



APPENDIX

EXCERPT FROM HEARING OF SEPTEMBER 24, 1987

The committee met at 11:05 a.m., in room SD-419, Dirksen Senate Office Building, Hon. Terry Sanford presiding.

Present: Senators Sanford, Kassebaum, Pressler, Evans, and McConnell.

Senator SANFORD. The Foreign Relations Committee will come to order.

Today, the committee is meeting to consider two international agreements which are economically significant to certain business interests in the United States.

The first agreement is the treaty on Fisheries Between Governments of Certain Pacific Island States and the United States of America, with annexes and agreement statements which were signed on April 2, 1987.

This treaty and related documents eliminate a serious foreign policy irritant caused by differing jurisdictional claims over the tuna fisheries of the South Pacific by establishing a mechanism whereby regional fishing licenses will be provided to the U.S. tuna fleet.

Under Secretary Derwinski will be testifying on behalf of this treaty, and Delegates Fofu Sunia of American Samoa and Ben Blaz of Guam are here to testify. Senator John Breaux will also be here to testify.

If any of you are here now, would you please come forward to the witness table.

The second agreement is the 1986 International Wheat Agreement. I will speak to that when we finish our first panel.

I think Senator Breaux at this moment is in the chair of the Senate Chamber and will be here soon.

If we may, now we will hear from Delegate Sunia.

STATEMENT OF HON. FOFU L.F. SUNIA, A DELEGATE TO THE U.S. CONGRESS FROM AMERICAN SAMOA

Delegate SUNIA. Thank you, Mr. Chairman.

Good morning to you and to Senator Evans.

I have submitted my full statement for the record, and I would, if I may, Mr. Chairman, like to summarize very briefly.

Ratification of this treaty, Mr. Chairman, is extremely vital to the continued existence of the canning industry in my territory. That industry will be worth in the vicinity of \$500 million this year, providing jobs for about one-half of our working force.

The long-term stability of our economy depends on how secure our Nation's arrangements are with the island nations around which we will be fishing. That security will depend largely on our

accepting this treaty, as well as our actions in other Pacific Ocean questions.

I say that, Mr. Chairman, because I believe the nations out there in the Pacific need a new total perception of the United States. We cannot isolate this treaty from our other activities out there.

I speak of our foreign aid, which goes to assist their economic and social development; our participation in regional organizations, such as the South Pacific Commission; our involvement in the military defense of the area; and our attitude toward the regional concerns, such as the creation of a Nuclear Free Zone.

I say that we cannot isolate this treaty from all that. It is, clearly, going to be the centerpiece of our presence out there.

There are serious problems out in the Pacific Ocean, ranging from Soviet encroachment to the French refusal to quit testing nuclear weapons, from changing island lifestyles to internal conflicts in some of the small island nations.

This treaty creates no such problem.

It is simply viewed as America doing the right thing. It will go a long way toward achieving for us the kind of perception we deserve in the Pacific.

I would like to close, Mr. Chairman, by expressing my appreciation for the prompt manner in which the committee has allowed this treaty to be heard in hearings, and I hope from here on the process will be equally prompt and that we reach a final resolution of this matter in the shortest possible time, creating further for our friends out in the Pacific more trust with us as a nation.

[The prepared statement of Delegate Sunia may be found in the appendix.]

Senator SANFORD. Thank you very much.

If there is no objection, we will first hear from Delegate Blaz and then will ask for any opening statements that any committee members may want to make, as well as any questions, if that is suitable to the members of the committee.

Senator PRESSLER. Mr. Chairman, I have some statements that I will be placing in the record.

Senator SANFORD. Yes. We will put all of those in in an orderly manner, and thank you.

STATEMENT OF HON. BEN BLAZ, A DELEGATE TO THE U.S. CONGRESS FROM GUAM

Delegate BLAZ. Thank you very much, Mr. Chairman.

As you indicated earlier, I am in the Congress from the American Territory of Guam. While we do not have a fishing industry in Guam, we are very supportive of this treaty, and I am here to assist us in getting it passed, or to assist you in passing it.

I have a different perspective from that of Mr. Sunia, in a sense. I draw from my own military background—I am a retired military-type, who has spent many, many years in the Pacific. I am a son of Guam; I am a son of the Pacific.

I think one of the things that I have noticed over the years is the feeling of neglect by our country to these island nations that paid so dearly with us as we went westward during World War II.

We asked for help; we received help. There were a lot of sacrifices. The intensity of our participation gave rise to high expectations that we would sometime in the near future return. It even created all sorts of cults out there—some people call it a cargo cult, where they have a way of chanting so that maybe the chanting would help the Americans return.

In any case, now that the Coral Sea generation of people are dying off and there are no more stories to tell about the great Americans that swept here westward, we need to reenter the region. So the treaty is more than a fishing treaty. It is recognition of the sovereignty of the many nations out there that have had a love and affection for our country for so long.

I think by reinstating and reentering the region, it may reestablish us as the people that they want to associate themselves with, and it would be a counter to the adventures of the Soviet Union, which are sporadic, nevertheless, which are there.

So I come here in support of Mr. Derwinski's anticipated testimony and I am open to any questions that you may ask.

Thank you.

Senator SANFORD. Thank you very much.

I did not realize that Mr. Derwinski was here when we started. I had intended to invite him to the table at the same time.

I would appreciate your coming forward now, please.

We would be pleased to hear your testimony.

STATEMENT OF HON. EDWARD J. DERWINSKI, UNDER SECRETARY FOR SECURITY ASSISTANCE, SCIENCE AND TECHNOLOGY, DEPARTMENT OF STATE

Mr. DERWINSKI. Thank you, Mr. Chairman.

I believe the committee does have my testimony.

Senator SANFORD. Yes, and we will enter that into the record in full.

Mr. DERWINSKI. Thank you. I was going to ask that my full testimony be placed in the record so that I might summarize.

I would like to point out, Mr. Chairman, that this treaty is something that we feel enhances not only our immediate fishing relations with the islands in the South Pacific, but also, as Delegate Blaz indicated, it goes a long way to emphasizing the historic and very positive U.S. interest and U.S. role in the South Pacific.

The background of the treaty was that tuna, which the United States recognizes as a highly migratory species, runs into jurisdictional claims of the island states. As a result, we have had very delicate, difficult, diplomatic problems over the years, when U.S. tuna vessels would be picked up by the local state.

This treaty would solve that immediate problem.

The treaty took 2 years of negotiations. We completed the basic negotiations in October 1986. A session was held on the island of Tonga, and involves the 16 Pacific Island states, including Australia and New Zealand. It has a number of what we think are very practical features.

One of them is that the United States will work with the South Pacific Forum Fisheries Agencies, which is an umbrella group, and the actual distribution of the funds will be handled by that entity.

In addition to that, the formula they have reached takes into account where the fish are caught. This is the most practical way we were able to reach an agreement on that point.

The U.S. tuna industry supports the treaty. They will be called upon to pay substantial fees over the period of the treaty—5 years.

We also provide in the treaty that, in order for it to go into effect, the Federated States of Micronesia, Kiribati and Papua New Guinea must sign the treaty. The reason is that those are the locations where the tuna tend to congregate, and the participation of those three states is essential to the economic well-being of our tuna industry.

We also are aware of the fact that this gives us a very positive regional input. We have, through the regional nature of the treaty, kept it, as we see, consistent with U.S. policy, that access and management of tuna be through regional international agreements, and the overall provisions are consistent with long-term U.S. policy and security concerns.

I should add also, Mr. Chairman, that legislation to implement the treaty has been prepared. It will be submitted to Congress as soon as it goes through the standard procedures at OMB.

We'd appreciate your support of the treaty itself and, following that, the implementing legislation.

[The prepared statement of Mr. Derwinski may be found in the appendix.]

Senator SANFORD. Thank you very much.

We have now joining us Senator John Breaux of Louisiana.

We invite you, Senator, to enter your statement and to make any comments you care to make.

Senator BREAUX. Thank you, Mr. Chairman. I will wait until you finish with the distinguished panel of our colleagues and State Department officials.

Senator SANFORD. Very well.

Now we will ask Members, I suppose in the order of their arrival, to enter statements and ask questions.

We will start with Senator Evans.

Senator EVANS. Thank you, Mr. Chairman.

I welcome these distinguished visitors to this committee.

I understand something of the nature of the problems we have faced, coming from a fishing State, and, although tuna is not among our major interests, certainly migratory fish are.

I had asked that the committee try to bring both this agreement and the wheat agreement, which will be in front of us shortly, to the committee as rapidly as possible so that we could ratify it and continue the progress which I commend and which I believe is going to lead us to a much better relationship with the various states of the Pacific Ocean.

With that, Mr. Derwinski, this may be a terrible first question to ask because it may get us into big trouble. But I am curious about what is the rationale for us to consider the 12-mile limit as being appropriate for tuna but to consider a 200-mile limit as appropriate for salmon.

Mr. DERWINSKI. That is a question that goes back to the history of the fishing industry—

Senator EVANS. I'm sure it does.

Mr. DERWINSKI [continuing]. And how it has fared or survived congressional overview.

My recollection was, when I was an innocent House Member representing an inland State, Illinois, that the tuna industry was always very convincing in presenting its case to the Congress, and that accounts for the special provisions in the Magnuson Act and other provisions of law that relate specifically to the tuna industry.

Senator EVANS. I guess that is the rationale that we use for most of the things we do around here.

Mr. DERWINSKI. Yes.

My State was a tuna consumer, and I did not know too much about the technicalities of tuna fishing.

Senator BREAUX. Would my colleague from Washington yield for a comment on this?

Senator EVANS. Yes.

Senator BREAUX. I think that the point you make is a difficult one to answer, but I would suggest that perhaps a legitimate answer is that, with regard to salmon, we have an origin for those fish. They spawn in a specific area, in a specific State, whereas the same is not true with tuna, which are truly migratory, and we don't know where they happen to originate, where they spawn. The difference is that with salmon, we do know that.

Therefore, that is a difference.

Senator EVANS. I see. Thank you.

In terms of the economic settlement in this treaty, in your formal remarks you said that the licenses would cost at least \$50,000 per vessel and that \$1.75 million in license fees would be paid in the first year.

It is my understanding that the signatory nations, the Pacific Island states, would have their own method of distributing the money.

Is that essentially correct?

Mr. DERWINSKI. Yes.

There are actually two separate points to make there.

The tuna industry has agreed that in the first year, the industry would guarantee a minimum of 35 vessels, that is, 35 licenses, at \$50,000 each, and an additional 5 if the demand is there, as the law of supply and demand works.

It is envisioned overall that over the 5 years of the treaty, the average industry contribution, in terms of licenses, would run about \$2 million a year.

The island states have devised their own formula whereby each signatory would receive a small minimum payment, and then the largest part of the payment would go to those states in proportion to where the fish were caught.

Senator EVANS. It is also my understanding that there is a 5-year, \$10 million, aid or economic assistance element to this, which would be a U.S. Government grant to those various states.

Mr. DERWINSKI. Yes. The \$1 million would be technical assistance for the local fishing industry; \$9 million in effect would be a monetary contribution.

Senator EVANS. How does all of this relate to the direct economic value, to the United States tuna fisherman fishing in the area? If, for instance, in an average year there are the 35 boats fishing, do

you have any figure on the total direct payments that would go to those fishermen as a result of this?

Mr. DERWINSKI. My understanding is that, on the average, the annual value of the tuna catch is about \$100 million. That would be as the fleet brings it to the cannery. Then I guess there is an escalation of economic factors after that. But the value of the catch to the fishermen is in the area of \$100 million a year.

Senator EVANS. I would certainly say at the beginning that I commend you for negotiating this treaty and putting it together. It is a major step forward and I certainly am going to support it.

I do wonder, however, whether \$10 million from the general taxpayers, as opposed to a collective \$1.75 million from the fishermen, who are going to get the essential economic benefit of all of this, is an appropriate division of fiscal responsibility.

Mr. DERWINSKI. Frankly, Senator, this is something I worried about during the entire negotiating process, but dealing with the realities of what we were facing—and I am not trying to be coy—we had a \$1 million aid package, and we sort of rolled it in.

The islanders asked originally for in excess of \$20 million. Our first offer to them was \$5 million. So, in the classic procedure of negotiating, we sort of split the difference, and we wound up with a \$12 million package.

The industry claimed that pretty well fits the number of ships that they could logically expect to be fishing over the next, say, 5 years. We felt that it was a good investment of overall U.S. recognition of the needs of those islands.

We also kept in mind, I think in the proper fashion, that they do have limited resources. Their tourism is limited, their agricultural prospects are very limited. This does represent to them one of their truly major assets.

Weighing all those factors, some of them vague, obviously, we felt we had reached a fair bargain.

Senator EVANS. I have no quarrel at all with the bargain. I guess my real question is of the total amount of money that is involved, coming from the license fees as well as from U.S. Government funds, do you really feel we have the right share?

It is approximately 1.75 percent of the economic value for license fees for the tuna fishermen, and the rest of it the general taxpayers are going to face up to.

Bluntly, should not the tuna fishermen pay more of that fee for the privilege of fishing in those rich waters, or should this be a U.S. Government responsibility?

Mr. DERWINSKI. That is a question that I raised a few times within our delegation. The tuna industry claims that the \$50,000 license fee was what they could afford to pay. We did ask informally for them to review their overall ability to contribute more, and the response was not positive.

Senator EVANS. I am not surprised. Everyone wants to get by with as little as they can. That is not just the tuna fleet; that is everybody.

Was there any kind of detailed investigation to determine what an appropriate fee was? Or was it a matter of asking whether the fishermen could pay more and they said "No, they could not"?

Mr. DERWINSKI. We did write to the major canning companies, asking if they were in a position to contribute over and above the contributions to be made by the license fees. The response, predictably, was in the negative.

We were then faced with the process where the negotiations had moved along steadily and it came to the practical point of not just the fisheries' industry itself but the investment that we were making in goodwill throughout the entire region.

We just took the necessary calculation that we were hammering out the best deal that we could, notwithstanding the point that you raise, which, frankly, I share.

Senator EVANS. I have just one final question.

Do you anticipate, or do you have any idea yet as to what is likely to happen at the end of this year? I understand there is a 1-year fishing agreement between Vanuatu and the Soviet Union. It was not renewed with, I think, Kiribati. Do you have any inkling as to what is likely to happen at the end of this year with that fishing agreement?

Mr. DERWINSKI. That, of course, would be totally a Soviet decision.

Senator EVANS. Well, it will be a Soviet decision, or a Vanuatu-Soviet decision?

Mr. DERWINSKI. Well, really a Soviet decision, and in this sense. In Kiribati they went in with a 1-year agreement, at \$1.5 million a year. They came back a year later and said, "we would be happy to renew it, but we will offer you roughly one-third." Kiribati at that time said, "No thank you."

I don't know how the Soviets are going to play the Vanuatu card.

Senator EVANS. I see. Thank you.

Thank you, Mr. Chairman.

Senator SANFORD. Thank you.

Because of the number of Senators who are here and the amount of time today, I have invoked the 5-minute rule. But I would be glad to extend that if any Senator feels the need to go longer than that.

Senator Kassebaum.

Senator KASSEBAUM. Thank you, Mr. Chairman. I am here to speak on the International Wheat Agreement, although I certainly recommend tuna sandwich on whole wheat bread. [Laughter.]

Mr. DERWINSKI. Thank you. That sounds like an endorsement and we appreciate your support. [Laughter.]

Senator SANFORD. Senator McConnell.

Senator MCCONNELL. I will give you a break, Mr. Chairman, and will pass.

Senator SANFORD. Very good.

Senator BREAUX, we have your statement which we will enter in full into the record.

Senator BREAUX. Thank you, Mr. Chairman.

Should I be recognized for my comments now, and then I won't take up any more of your time.

Senator SANFORD. Please just do whatever you want to. We would appreciate your comments here and perhaps some of us would like to ask you a question.

STATEMENT OF HON. JOHN BREAU, A U.S. SENATOR FROM
LOUISIANA

Senator BREAU. Thank you, Mr. Chairman. I will be brief.

First I would like to thank our distinguished former colleague, Ed Derwinski, for a job well done, I think, on behalf of the State Department. These negotiations were very difficult. They involved as many as 14 nations, many of which had their own agendas, separate from ours certainly and separate from each other.

I also commend John Negroponte and Ed Wolfe for the fine work that they did in bringing this treaty to the Senate.

Our good friend, Fofi Sunia, who served with me in the House, has always been very active in this area. We are pleased that he is here with his colleague, Mr. Blaz, today.

This is an important treaty, I would say to our colleagues. We are talking about 10 million square miles that the United States is getting access to. We are talking about a treaty which reaffirms and confirms a U.S. policy with regard to tuna.

This is a very controversial subject, as my good friend from Washington brought up. It is a fact that we, as a nation, just like the tuna, do not recognize boundary lines with regard to this highly migratory species. Tuna do not know where the lines are drawn. For nations to try to carve up lines in the international waters and say these are our tuna is an impossibility.

Therefore, we need an international agreement among nations to try to manage a highly migratory, very valuable resource.

This is an area in which the Soviets wanted to be a major player. We should not kid ourselves. This treaty represents a herculean effort by our State Department in ensuring that this is an area where the United States is going to be the major player.

We have a \$10 million fee, or an economic assistance package as part of this agreement. It's peanuts compared to what we get. The resource is incredibly valuable. The presence of the United States in that part of the world is incredibly important.

I would suggest that the split, where the tuna industry is paying, I think, \$1.75 million, compared to the U.S. Government paying \$10 million, is proper and appropriate.

The U.S. tuna fisherman should not have on his back the full cost of the foreign policy of the United States.

Economic assistance is legitimate. Economic assistance in this part of the world is needed. What we get is a presence in a very important part of the world.

Therefore, I think the money is insignificant in comparison to the features that we get.

The final thing, Mr. Chairman, is that this treaty preserves a very important international principle that we have as a nation, and that is that tuna are migratory and can only be managed through international agreements.

Another notable treaty dealing with tuna is the ICAT Agreement, the International Conservation of Atlantic Tuna. When that treaty began in 1969, tuna were almost decimated in the North Atlantic. Because of that treaty, they are now coming back.

Hopefully, when we ratify this treaty, we will have the same positive results. I think it is a major victory for U.S. foreign policy and good fisheries management.

Thank you.

[The prepared statement of Senator Breaux may be found in the appendix.]

Senator SANFORD. Thank you very much.

I have a statement of Senator Alan Cranston, which we will put into the record.

[The prepared statement of Senator Cranston follows:]

PREPARED STATEMENT OF SENATOR CRANSTON

Mr. Chairman, I am very pleased that the committee is today reviewing a treaty on fisheries between Pacific Island states of the western Pacific region and the United States. This treaty, together with accompanying implementing legislation, is of great importance to the U.S. tuna industry—headquartered in my State of California, and to U.S. fisheries in general. It will resolve a long-standing dispute over fisheries jurisdiction and it will establish a 5-year development assistance program for Pacific Island nations. I urge the committee's swift and favorable action in reporting the treaty to the Senate for ratification.

The treaty sets forth a workable, rational licensing and tuna management structure for U.S. vessels operating in the western Pacific. The need for such a treaty grew out of a dispute over fishing for highly migratory species of tuna. In 1982 and 1984, seizure of two U.S.-flag fishing vessels led to imposition of the embargo provisions of the Magnuson Fishery Conservation and Management Act upon Papua, New Guinea, and the Solomon Islands. The dispute jeopardized relations between the United States and island nations. In 1984, island leaders meeting at the South Pacific Forum, opened the door for talks toward a regional fisheries agreement. There were 10 rounds of negotiations, beginning in September 1984. In April of this year the treaty was signed by the United States, Australia, Cook Islands, Fiji, Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, New Zealand, Papua New Guinea, Solomon Islands, Tuvalu, and Western Samoa.

By establishing a mechanism to regulate fishing, necessitated by differing jurisdictional claims over tuna, the treaty should bring to a halt the seizures of U.S.-flag tunaboats by island nations and the retaliatory imposition of U.S. embargoes called for by the Magnuson Act. More broadly, the treaty offers a way to assure amiable relations between the island states and the United States, relations jeopardized by recent tuna fishing disputes.

Ten million square miles of South Pacific ocean are covered by the treaty. U.S. tuna vessels will purchase licenses to fish in this area, with a base price of a license set at \$50,000; \$1.75 million has been guaranteed by the tuna industry to purchase 35 licenses in the treaty's first year. Technical assistance to island states, valued at \$250,000 annually, is guaranteed to the island states by the industry through the South Pacific Forum Fisheries Agency.

Accompanying the treaty is an agreement between the United States and the South Pacific Forum Fisheries Agency, setting forth

an annual economic assistance package of \$10 million for each of 5 years. When that amount is paid each year, the licenses become effective.

Mr. Chairman, the administration calls the negotiation of this treaty an important step in our fisheries policy. The treaty is fully supported by the U.S. tuna industry. The treaty, along with the 5-year development assistance package, assumes additional significance in view of recent overtures by the Soviet Union to several of the island nations for fisheries agreements.

I urge the committee's favorable consideration.

Senator SANFORD. I also have a series of organized questions which we would like to submit to you, Mr. Secretary, in the interest of saving time. We will submit those for the record.

I have a statement from the American Tuna Boat Association, which we will enter into the record.

[The information referred to appears in the appendix.]

Senator SANFORD. The record will remain open for a week for any additional entries by any member of the committee.

Thank you very much. Do you have any final comments?

Mr. DERWINSKI. I would just like to make one point.

All through the negotiations we consulted with Ben Blaz and Fofu Sunia, representing, as they do, the island area, and also with Senators Matsunaga and Inouye. As a result, we did have the constant input of the people we felt were attuned to and who understood our needs in the Pacific. It was a very positive relationship.

Senator SANFORD. It is obvious that you have done a very good job, and we thank you.

Mr. DERWINSKI. Thank you, sir.

Senator SANFORD. Thank you for being here.

Delegate BLAZ. Thank you, Mr. Chairman.

Delegate SUNIA. Thank you.

APPENDIX

Prepared Statement of Hon. Fofu I.F. Sunia
A Delegate in Congress from American Samoa

THANK YOU, MR. CHAIRMAN. I AM PLEASED TO APPEAR AS A WITNESS AT THIS MEETING OF YOUR DISTINGUISHED COMMITTEE. THE ISSUE BEFORE YOU TODAY IS OF THE UTMOST IMPORTANCE TO THE UNITED STATES NATIONALS AND CITIZENS AND PERMANENT RESIDENTS OF AMERICAN SAMOA, OUR COUNTRY'S SOUTHERNMOST FLAG TERRITORY. YOU CONSIDER THIS MORNING THE RATIFICATION OF THE INTERNATIONAL TREATY GOVERNING TUNA, TREATY DOC. 100-5. AS AMERICAN SAMOA LIES IN THE SOUTH PACIFIC, THIS TREATY HAS A SPECIAL MEANING FOR THESE ISLANDS, AND NOT FOR ECONOMIC REASONS ALONE. I HOPE THAT THIS HOLDS TRUE FOR AMERICANS ELSEWHERE, AS WELL.

AS THE MEMBER OF CONGRESS FROM THAT ISLAND CONSTITUENCY IN THE SOUTH PACIFIC, I AM HAPPY THAT THE UNITED STATES GOVERNMENT HAS EMBARKED ON A NEW, IMPROVED RELATIONSHIP WITH OTHER TUNA-PRODUCING COUNTRIES. MANY NON-AMERICANS IN THE SOUTH PACIFIC WONDER WHAT OUR NATION PLANS TO DO IN THIS PART OF THE WORLD. THE SOUTH PACIFIC HAS STRATEGIC IMPORTANCE TO THE UNITED STATES, AND THIS NATION SHOULD SHOW GREAT CONCERN FOR THE NEEDS, IDEAS AND WELFARE OF ITS FRIENDS; WE MUST RECOGNIZE THEM FOR OUR OWN SAKE.

I THOROUGHLY APPROVE OF THIS TREATY, AND I HOPE THAT THIS COMMITTEE WILL VOTE FAVORABLY ON IT. ITS PROVISIONS ARE EXACTLY THOSE WHICH THE AMERICAN TUNA INDUSTRY REQUIRES TO EXIST AND GROW. THE DEMANDS OF THE TUNA TRADE HAVE CLEARLY SHOWN THIS. THOSE UNITED STATES CITIZENS AND NATIONALS WHO DEPEND ON THE TUNA INDUSTRY FOR THEIR LIVELIHOOD ENTHUSIASTICALLY APPLAUD THE PURPOSE AND INTENT OF THIS TREATY. I DO SO TOO.

MAY I MENTION A FEW FACTS AND FIGURES? TUNA PACKING

IS THE PRIME INDUSTRY OF MY CONGRESSIONAL DISTRICT. IT IS NOT JUST A MAJOR SOURCE OF PRIVATE CAPITAL; IT IS THE ONLY ONE. UNITED STATES CONSUMPTION OF TUNA TOTALS FORTY MILLION (40,000,000) CASES PER ANNUM. FOR YOUR REFERENCE, EACH CASE OF PROCESSED TUNA CONTAINS NINETEEN (19) AND ONE-HALF (1/2) POUNDS. FOREIGN TUNA IMPORTS TOTAL ANNUALLY NINE MILLION (9,000,000) CASES; THE UNITED STATES PACK IS THIRTY-ONE MILLION (31,000,000) CASES PER ANNUM.

OF THE UNITED STATES PACK, PUERTO RICO, CALIFORNIA AND HAWAII PRODUCE YEARLY EIGHTEEN MILLION (18,000,000) CASES, AND AMERICAN SAMOA THIRTEEN MILLION (13,000,000). THAT IS MORE THAN ANY OTHER UNITED STATES JURISDICTION. MY TERRITORY'S SHARE OF THE TOTAL UNITED STATES CONSUMPTION OF TUNA IS THIRTY-TWO (32) PER CENTUM PER ANNUM. AMERICAN SAMOA'S SHARE OF THE UNITED STATES PACK IS FORTY-ONE (41) PER CENTUM PER ANNUM. TO GIVE YOU AN EXAMPLE OF HOW MUCH TUNA WORKERS IN MY CONGRESSIONAL DISTRICT CAN, I WILL NOTE THAT IN ONE TWELVE-HOUR SHIFT AMERICAN SAMOA'S TWO TUNA PLANTS PROCESS FIVE HUNDRED FIFTY (550) TONS. THAT MEANS THAT ANNUALLY MY TERRITORY PRODUCES ONE HUNDRED THIRTY-SEVEN THOUSAND, FIVE HUNDRED (137,500) TONS OF PROCESSED TUNA, A STAGGERING AMOUNT, I THINK, FOR A JURISDICTION WITH A POPULATION OF ONLY THIRTY-SEVEN THOUSAND (37,000) INHABITANTS.

AS SOME OF YOU MAY KNOW, EACH WEEK I SPEAK TO THE PEOPLE OF MY TERRITORY VIA RADIO SAMOA. ON JUNE TWENTY-FIFTH I DEVOTED MUCH OF MY RADIO ADDRESS TO THE IMPORTANCE OF THE TUNA

TREATY. I ASSURED MY CONSTITUENTS THAT DAY THAT I WOULD TESTIFY BEFORE THIS COMMITTEE DURING ITS HEARINGS ON THE TREATY. THE VERY NEXT DAY, JUNE TWENTY-SIXTH, SAMOA NEWS, MY TERRITORY'S SOLE TWICE WEEKLY NEWSPAPER, DEVOTED MORE THAN A FULL PAGE TO REPORTING ON MY RADIO ADDRESS AND MY PLAN TO TESTIFY BEFORE YOUR COMMITTEE ON THIS MATTER. BY THE WAY, THIS WAS NOT DUE TO ITS HAVING BEEN A SLOW NEWS WEEK. THAT ISSUE OF SAMOA NEWS ALSO COMPLETED THE COVERAGE OF THE VISIT TO AMERICAN SAMOA ON JUNE SIXTEENTH BY THE UNITED STATES SECRETARY OF DEFENSE, THE HONORABLE CASPAR W. WEINBERGER.

WHEN WE DEAL WITH THE NATIONS OF THE SOUTH PACIFIC, THE UNITED STATES SHOULD NOT ALLOW THAT ONLY ITS OWN INTERESTS INFLUENCE IT. THIS TREATY IS IN THE INTEREST OF OTHER TUNA-PRODUCING NATIONS AS MUCH AS IN THIS COUNTRY'S. THE TREATY GIVES COMPENSATION TO THE NATIONS IN WHOSE WATERS UNITED STATES BOATS WILL FISH. THE COMPENSATION THESE ISLANDS WILL RECEIVE, IF THE SENATE RATIFIES THIS TREATY, WILL COME NOT MERELY FOR REASONS OF UNITED STATES SECURITY. QUITE OFTEN THE UNITED STATES HAS FOUND ITSELF FUNDING THE REDEVELOPMENT PROGRAMS OF OTHER NATIONS SO THAT THEY REMAIN STABLE.

THIS TREATY WILL GIVE THE GOVERNMENTS OF THE NATIONS IN THE SOUTH PACIFIC THE CHANCE TO ACCOMPLISH MUCH. THOSE COUNTRIES NEIGHBORING AMERICAN SAMOA WILL HAVE A BETTER FEELING TOWARDS THE UNITED STATES FOR THEY CAN SEE BY THE TERMS OF THIS TREATY THAT THIS NATION IS FAIR IN ITS DEALINGS WITH THEM; WE

RECOGNIZE THEIR INDIVIDUAL AND COLLECTIVE CONCERNS, AND WE HONOR THEIR STATUS AS INDEPENDENT COUNTRIES.

I MUST CONGRATULATE MY FELLOW WITNESS, THE HONORABLE EDWARD DERWINSKI, ON HIS NEW POSITION. AS THE UNDER SECRETARY OF STATE FOR SECURITY ASSISTANCE, SCIENCE AND TECHNOLOGY, MY FORMER COLLEAGUE IN THE HOUSE WILL CONTINUE TO SERVE THE SHARED INTERESTS OF BOTH THE UNITED STATES GOVERNMENT AND THE AMERICAN INSULAR POSSESSIONS. I WISH HIM EVERY POSSIBLE SUCCESS. AS YOU KNOW, MR. CHAIRMAN, THE SECRETARY HEADED THE UNITED STATES DELEGATION TO THE NEGOTIATIONS. I ALSO APPRECIATE THE DEPARTMENT OF STATE'S RECOGNITION OF AMERICAN SAMOA'S POSITION BOTH GEOGRAPHICALLY AND AS A MAJOR PRODUCER. THE DEPARTMENT SHOWED THIS IN ITS INVITATION TO THE ATTORNEY GENERAL OF AMERICAN SAMOA, THE HONORABLE LEULUMOEGA LUTU, TO OBSERVE AND ASSIST AT THE NEGOTIATIONS.

IN ADDITION, MY THANKS GO TO DAVID KEANEY, ESQ., CHIEF COUNSEL TO THIS COMMITTEE, AND TO HIS CO-WORKER, MS. BETTY ALONSO, FOR THEIR GRACIOUSNESS TO MY STAFF IN ARRANGING MY APPEARANCE BEFORE YOU THIS MORNING.

THANK YOU, MR. CHAIRMAN.

Prepared Statement of Edward J. Derwinski, Under Secretary
of State for Security Assistance, Science and Technology

Mr. Chairman and Members of the Committee, I am .
delighted to be here today to discuss the Treaty on
Fisheries between the Governments of Certain Pacific Island
States and the Government of the United States of America.
The negotiation of this Treaty is an important step in our
fisheries policy and our relations with the South Pacific
Island states and should eliminate, for its duration, the
serious foreign policy irritants caused by differing
jurisdictional claims over tuna.

Most coastal states claim 200 nautical mile jurisdiction
over all species of fish, including tuna. The United
States, however, neither claims nor recognizes jurisdiction
over highly migratory tuna beyond 12 nautical miles from the
coast. United States policy, mandated by the Magnuson
Fishery Conservation and Management Act, has been to
negotiate international agreements to ensure the effective
conservation and management of tuna, and to secure agreed
terms of access for U.S. fishermen to highly migratory tuna
stocks.

Fishing by U.S. flag tuna vessels in the South Pacific, while consistent with U.S. law, has violated claims of jurisdiction and laws of several Pacific Island states. This has led to enforcement actions, including four vessel seizures by Pacific Island states.

To resolve these problems, and to prevent further deterioration of our traditionally cordial relations with the Pacific Island states, we began to negotiate a regional licensing agreement with sixteen Pacific Island states in September 1984. The intent was to arrive at a multilateral agreement on the terms and conditions under which U.S. tuna fishermen would fish in the region, including the purchase of regional licenses. Negotiations were complex and difficult, but some progress was made at each negotiating session, as all parties understood the importance of putting these fishing disputes behind us. At the tenth negotiating session in Tonga in October, 1986, an agreement was reached by the United States and the sixteen Pacific Island states.

This Treaty was signed in Port Moresby, Papua New Guinea on April 2, 1987 by the United States and twelve of the Pacific Island states (Australia, Cook Islands, Fiji, Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, New Zealand, Papua New Guinea, Solomon Islands, Tuvalu and Western Samoa). Niue and Vanuatu subsequently

signed the Treaty in late May. Palau and Tonga also participated in the negotiations leading to this Treaty; we hope they will sign in the near future.

The resolution reached with the Pacific Island states consists of two basic elements. First is the multilateral fisheries Treaty which sets forth the terms and conditions under which U.S. flag tuna vessels will fish in some 10 million square miles of the South Pacific Ocean, most of which is within the 200 mile exclusive economic zones of the island states. Its principal feature is the requirement that the U.S. tuna industry purchase annual regional licenses before U.S.-flag vessels fish for tuna in the area. These licenses will cost at least \$50,000 per vessel, subject to the price of tuna. The industry has guaranteed that \$1.75 million in license fees will be paid to the Pacific Island states during the first year of the Treaty. The tuna industry is also required to provide technical assistance valued at \$250,000 annually to the Pacific Island states.

Another component is a related executive agreement between the United States and the South Pacific Forum Fisheries Agency (FFA) (as agent for the signatory states) which provides an annual economic assistance package of \$10 million for five years. This assistance will be in the form

of a cash transfer, of which \$1 million will be used for development projects proposed by the participating island states through the FFA and approved by the Agency for International Development. Under the terms of the Treaty, the annual AID contribution must be paid before the annual fishing licenses become effective. We understand that the Pacific Island states have devised a formula which would distribute some funds to each Pacific Island state party to the Treaty, while dividing the bulk of the funds among Treaty parties on the basis of where the fish are caught. Details of the disbursement of A.I.D. funds are now being discussed with the FFA.

This U.S. Government assistance package was not originally envisioned when we entered into these negotiations. However, an additional political element was injected when, after negotiations began, the Soviet Union began to make overtures to Pacific Island states for fishing agreements. In December, 1985, the Soviet Union and the Government of Kiribati came to a one year agreement, which was not renewed last fall. This January, the Government of Vanuatu came to a similar, one year agreement with the Soviet Union. The lucrative Soviet offers are attractive to some of the economically hard-pressed Pacific Island states, despite the fact that the Soviet Union generally is not

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trusted by the islanders and has not historically had a presence or influence in the region. The U.S. views these overtures as an effort to penetrate the region economically, politically and diplomatically, a development inimical to U.S. and Western interests. The licensing fees the Soviet Union agreed to pay Kiribati were, by commercial standards, exceedingly generous and far in excess of what could be considered to be commercially acceptable license fees.

Island negotiators presented the U.S. side with a request for licensing payments far in excess of what was commercially realistic. However, we continued our commitment to conclude a treaty in order to put our fishing disputes behind us. We were convinced that the Treaty would at the very least reduce the attractiveness to the island states of dealing with the Soviet Union on fisheries, and would respond to the long-standing U.S. Government commitment to assist the economic development of these states. The Treaty negotiations presented us with a vehicle of opportunity to meet these goals, and we accepted the principle of a separate U.S. Government assistance package.

The Treaty will enter into force when ratified by the United States and ten Pacific Island states. Three of these

ten must be the Federated States of Micronesia, Kiribati and Papua New Guinea. We understand that eight island nations - Australia, the Cook Islands, the Federated States of Micronesia, Fiji, the Marshall Islands, Nauru, Papua New Guinea and Tuvalu - have already ratified the Treaty.

I believe that this Treaty is a very important achievement, and clearly in our national interest. By establishing a mechanism to regulate fishing in the region, it will resolve, for its duration, the fishing related foreign policy problems which we have encountered in the region as a result of our differing jurisdictional claims concerning tuna. Specifically, it will break the cycle of seizures of U.S.-flag tunaboats and the subsequent imposition of retaliatory U.S. embargoes mandated by the Magnuson Act.

The regional nature of the Treaty is consistent with U.S. policy that access and management of tuna be through regional international agreement, and the agreed provisions make a great deal of operational and practical sense from the perspective of U.S. fishermen. The U.S. tuna industry strongly supports the Treaty.

In addition, the agreement addresses other national security concerns. While this Treaty will not preclude the Soviets from offering further fisheries related deals, we

I believe that a number of island states would prefer not to enter into such agreements with them. The economic assistance called for by the agreement responds to the long standing U.S. Government commitment to assist the economic development of these democratic, pro-Western island states, and makes the ground less fertile for further Soviet inroads. The fact that we have reached an agreement will remove fisheries problems in our relations with the Pacific Island states as an area that the Soviet Union can exploit.

Overall, this Treaty and the related assistance agreement have the potential to turn fisheries around from an area of confrontation to one of the most positive aspects of our relationship with the Pacific Island states. All four U.S. Ambassadors from this unique and diverse region view this resolution as a vital underpinning for our entire range of interests in the area.

I should note that legislation necessary to implement this Treaty has been prepared and will be submitted to the Congress shortly.

Mr. Chairman, this concludes my formal statement to the Committee. I would be happy to expand on any of the topics I have mentioned and to answer any questions you or other members of the Committee may have. Thank you.

Prepared Statement of Senator John Breaux

MR. CHAIRMAN, I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOUR DISTINGUISHED COMMITTEE TO LEND MY STRONG ENDORSEMENT TO THE "TREATY ON FISHERIES BETWEEN THE GOVERNMENTS OF CERTAIN PACIFIC ISLAND STATES AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA". BY PROVIDING U.S. TUNA FISHERMEN ACCESS TO FISHING GROUNDS THROUGHOUT THE SOUTH PACIFIC THROUGH A REGIONAL LICENSING PROGRAM, THE TREATY REPRESENTS AN IMPORTANT REAFFIRMATION OF U.S. TUNA POLICY AND THE COMMITMENT OF THE U.S. GOVERNMENT TO WORKING CLOSELY AND COOPERATIVELY WITH THE MANY GOVERNMENTS OF THIS REGION. CLEARLY, THE TREATY HAS SUBSTANTIAL ECONOMIC AND POLITICAL SIGNIFICANCE.

MR. CHAIRMAN, I WANT TO CONGRATULATE MY FRIENDS AND COLLEAGUES DOWN AT THE STATE DEPARTMENT --PARTICULARLY ED DERWINSKI, JOHN NEGROPONTE AND ED WOLFE --FOR ALL THEIR HARD WORK AND SUCCESS IN SECURING WHAT IS TRULY A COMPLEX AGREEMENT. AS YOU KNOW, AS MANY AS FOURTEEN VERY INDEPENDENT AND UNIQUE PACIFIC ISLAND NATIONS--WITH DIVERSE PERSPECTIVES REGARDING SOVEREIGNTY, MARITIME JURISDICTION AND THEIR RELATIONSHIPS WITH THE UNITED STATES AND THE SOVIET UNION --ARE EXPECTED TO RATIFY THE AGREEMENT. IN FACT, FEW TREATIES INVOLVE AS MANY DISTINCT GOVERNMENTS OR PERTAIN TO AS LARGE A GEOGRAPHIC AREA--I UNDERSTAND THAT 10 MILLION SQUARE MILES OF WATERS RICH IN TUNA ARE COVERED BY THIS AGREEMENT. I SUSPECT THAT WE HAVE ONLY BEGUN TO PERCEIVE THE MANY BENEFITS A STRONG RELATIONSHIP WITH THE SOUTH PACIFIC REGION WILL BRING FOR ALL NATIONS INVOLVED.

HAND IN HAND WITH THE TREATY GOES THE ECONOMIC ASSISTANCE AGREEMENT WITH THE SOUTH PACIFIC FORUM FISHERIES AGENCY. UNDER THIS RELATED AGREEMENT, THE U.S. HAS MADE WHAT I FEEL IS A VERY NECESSARY COMMITMENT TO PROVIDE \$10 MILLION IN ECONOMIC ASSISTANCE FOR EACH OF FIVE YEARS TO THE SOUTH PACIFIC FORUM FISHERIES AGENCY--WHICH SERVES AS THE AGENT FOR THE SIGNATORY NATIONS.

MR. CHAIRMAN, AS YOU RECOGNIZE, THE PACIFIC ISLAND NATIONS VERY MUCH DESIRE AND DESERVE THE OPPORTUNITY TO IMPROVE THEIR ECONOMIES AND STANDARD OF LIVING. IT IS CERTAINLY APPROPRIATE AND WHOLLY CONSISTENT WITH UNITED STATES FOREIGN POLICY TO ASSIST THESE NATIONS TO ACHIEVE THEIR LONG-TERM GOALS OF ECONOMIC STABILITY AND INDEPENDENCE--PARTICULARLY IF U.S. INDUSTRY WILL BENEFIT AS WELL. AND, IT WILL--UNDER THIS AGREEMENT, U.S. TUNA VESSELS WILL ACHIEVE ACCESS TO 10 MILLION SQUARE MILES OF WHAT MAY BE THE RICHEST OF TUNA FISHING GROUNDS.

REPRESENTING THE AMERICAN TUNA INDUSTRY'S COMMITMENT TO THE AGREEMENT, U.S. TUNA VESSELS WILL PURCHASE REGIONAL LICENSES AT \$50,000 EACH WITH A FIRST YEAR GUARANTY OF 35 LICENSES AND \$1.75 MILLION. BEYOND ADMINISTRATIVE EXPENSES, THESE REVENUES WILL BE DISTRIBUTED AMONG THE ISLAND NATIONS THAT ARE PARTY TO THE AGREEMENT. THE U.S. INDUSTRY HAS ALSO COMMITTED TO PROVIDE \$250,000 OF DIRECT FISHERIES-RELATED TECHNICAL ASSISTANCE EACH YEAR TO THE SIGNATORY NATIONS.

MR. CHAIRMAN, I HAVE BEEN FOLLOWING THE PROGRESS OF THIS NEGOTIATION CLOSELY FOR QUITE SOME TIME NOW--WELL BACK INTO MY TENURE IN THE HOUSE AS CHAIRMAN OF THE FISHERIES AND WILDLIFE SUBCOMMITTEE. IN FACT, TUNA JURISDICTIONAL ISSUES HAVE BECOME ALMOST SECOND NATURE TO ME. FOR THE RECORD, I HAVE REMAINED A STRONG PROPONENT AND ADVOCATE OF THE UNITED STATES' JURIDICAL POSITION THAT, DUE TO THEIR HIGHLY MIGRATORY NATURE, TUNA CANNOT BE EFFECTIVELY CONSERVED AND MANAGED ON A UNILATERAL BASIS. INSTEAD, SUCH CONSERVATION AND MANAGEMENT MUST BE ADDRESSED ON A COOPERATIVE, MULTILATERAL BASIS THROUGHOUT THE RANGE OF THE SPECIES. I HAVE TO COMMEND THE DOGGED EFFORTS OF THE STATE DEPARTMENT OVER THE YEARS TO BRING THIS POLICY OF RESPONSIBLE RESOURCE CONSERVATION AND MANAGEMENT TO THE RECOGNITION OF MANY NATIONS WHOSE DECLARED ECONOMIC ZONES SUPPORT POPULATIONS OF HIGHLY MIGRATORY TUNA.

IN THIS REGARD, THE TREATY BEFORE YOU IS CONSISTENT WITH SIMILAR EXISTING TUNA TREATIES PERTAINING TO OTHER REGIONS OF THE PACIFIC AND THE NORTH ATLANTIC. THESE HAVE SHOWN TO BE HIGHLY EFFECTIVE FROM A CONSERVATION AND MANAGEMENT PERSPECTIVE. A CASE IN POINT IS THE INTERNATIONAL CONVENTION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT) WHICH REPRESENTS THE MULTILATERAL MANAGEMENT REGIME FOR NORTH ATLANTIC TUNA. UPON THE COMING INTO FORCE OF ICCAT IN 1969, THE EXTREMELY VALUABLE BLUEFIN TUNA FISHERY WAS HEAVILY OVERFISHED, PARTICULARLY BY JAPANESE LONGLINERS, AND THE POPULATION WAS IN A DANGEROUS STATE OF DECLINE. AN EFFECTIVE CONSERVATION PLAN FOR BLUEFIN WAS ESTABLISHED THROUGH ICCAT AND TODAY I AM TOLD THAT THE RESOURCE IS RECOVERING. THIS COULD NOT HAVE BEEN ACHIEVED BY THE U.S. ON A UNILATERAL BASIS BECAUSE MUCH OF THE RESOURCE AND FISHING OCCURS BEYOND THE FISHERIES JURISDICTION OF THE U.S. INSTEAD, RANGE-WIDE MANAGEMENT WAS ACCOMPLISHED THROUGH THE COOPERATIVE PARTICIPATION OF ALL PARTIES, PARTICULARLY CANADA, JAPAN AND THE U.S.

TOWARD THE ACHIEVEMENT OF RESPONSIBLE AND EFFECTIVE TUNA MANAGEMENT GLOBALLY, IT IS ALSO IMPORTANT THAT CONGRESS CONTINUE TO ACTIVELY SUPPORT CURRENT U.S. TUNA POLICY AS SPECIFIED IN THE FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976. THAT STATUTE CALLS FOR ECONOMIC SANCTIONS AGAINST THOSE NATIONS THAT PERSIST IN THEIR SHORT-SIGHTED JURISDICTIONAL CLAIMS OVER TUNA. MANY U.S. TUNA VESSELS HAVE BEEN FORCEFULLY SEIZED AT GUNPOINT BY FOREIGN NATIONS BASED ON IRRESPONSIBLE JURISDICTIONAL CLAIMS THE U.S. NEITHER CLAIMS ITSELF NOR RECOGNIZES. THESE AGGRESSIVE ACTIONS ARE AT SUBSTANTIAL COST TO OUR U.S. TUNA FISHERMEN AND CERTAINLY THREATEN THE SAFETY AND LIVES OF THEIR CREW.

UNDER AUTHORITY OF THE FISHERMEN'S PROTECTIVE ACT, THE STATE DEPARTMENT BACKS-UP U.S. TUNA POLICY BY PROVIDING ECONOMIC COMPENSATION TO THOSE U.S. TUNA VESSELS WHO ARE THE VICTIMS OF SUCH ACTIONS AND WHO ARE OPERATING IN A MANNER THAT REFLECTS U.S. TUNA POLICY.. I WOULD SIMPLY URGE THE COMMITTEE'S CONTINUED SUPPORT FOR THESE IMPORTANT POLICIES AND PROGRAMS.

AGAIN, I THANK THE CHAIRMAN FOR THE OPPORTUNITY TO BE HERE AND TO EXPRESS MY VIEWS. I URGE YOU TO MOVE SWIFTLY TOWARD RATIFICATION OF THE AGREEMENTS BEFORE YOU AND LOOK FORWARD TO PERSONALLY WORKING ON IMPLEMENTING LEGISLATION.

Prepared Statement of the American Tunaboat Association

The American Tunaboat Association (ATA) is a non-profit fishery cooperative based in San Diego, California that represents nearly all U.S.-flag long-distance tuna vessels. Along with the U.S. Tuna Foundation, a non-profit business association representing tuna canners, boat owners and labor unions that promotes the common interests of the U.S. tuna industry, ATA has been the principal industry advisor to U.S. negotiators in the development of tuna treaties involving U.S.-flag vessels.

We are very pleased to submit this statement in support of ratification of the South Pacific Tuna Treaty between the United States and island nations in the South Pacific creating a comprehensive tuna management treaty for the region.

A Short History of U.S. Policy on Tuna Management

By way of background, we believe it is important to understand the origins and status of U.S. tuna policy as reflected in the Magnuson Fishery Conservation and Management Act,^{1/} this nation's principal statute governing fisheries

^{1/} Public Law 94-265, enacted April 13, 1976; 16 U.S.C. §§1801-1882.

management. The Magnuson Act establishes a 200-nautical mile fishery conservation zone off the United States, within which the U.S. exercises exclusive fishery management authority.

Section 103 of the Act, ^{2/} however, states that:

"The exclusive fishery management authority of the United States shall not include, nor shall it be construed to extend to, highly migratory species of fish [i.e. tuna]."

Additionally, section 202(e) of the Magnuson Act ^{3/}, in essence, states that the United States does not recognize the juridical claim of any foreign nation to manage tuna beyond 12 nautical miles if that country does not accept the principle that tuna fishing is to be regulated only by international agreement rather than unilaterally. This policy was reaffirmed in President Reagan's declaration of a 200-mile Exclusive Economic Zone on March 10, 1983.

The foundation of U.S. tuna policy is the biology of the tuna species. The highly migratory tuna range over thousands of miles of ocean and respect no human-devised borders. No single nation can effectively manage fish stocks which move back and forth across the fishery zones of many countries. The biological differences between open-ocean tunas and coastal-dependent stocks, such as shrimp or cod, provides a rational basis for differing juridical positions on coastal and highly migratory species. However, we recognize that other countries do not agree with our policy.

^{2/} 16 U.S.C. § 1813.

^{3/} 16 U.S.C. § 1822(e).

The new United Nations Law of Sea Treaty did not resolve the debate over tuna jurisdiction and, as you know, the United States has not signed that treaty. The treaty, however, does contain clear language outlining the duty of all coastal and fishing nations to "cooperate directly or through appropriate international organizations with a view to ensuring conservation and promoting the objective of optimum utilization of [highly migratory] species throughout the region, both within and beyond the exclusive economic zone."^{4/} We view this requirement for international cooperation as a fundamental part of U.S. tuna policy. Together the Magnuson Act and international law require the Department of State to seek appropriate international agreements governing tuna management wherever U.S. tuna vessels operate. The tuna industry has always supported such efforts.

In short, the tuna industry has strongly supported the U.S. policy of involvement in broad, regional tuna treaties for conserving tuna resources and for licensing tuna fishing, if the terms of such treaties are otherwise acceptable and commercially justifiable. We also recognize that tuna treaties can make a substantial contribution to other foreign policy goals of this country.

The U.S.-flag, long-distance tuna fleet focuses on the harvest of "light meat" tuna (principally, yellowfin and skipjack) for the canning market in the United States. Over 99% of our fleet's annual harvest of 200,000-250,000 metric

^{4/} United Nations, Convention on Law of the Sea, A/CONF. 62/WP.10/Rev. 3 (1980), Article 64.

tons is taken in waters outside the 200-mile fisheries jurisdiction of the United States. This fleet of about 68 active vessels (and 13 inactive vessels) represents the only viable long-distance U.S. fishing fleet. We harvest roughly one-third of the light meat tuna annually canned and consumed in the United States.

Because of the very nature of our business, the operation of U.S. tuna vessels is greatly influenced by developments in international law and politics relating to jurisdiction and control over fishery resources. Without reasonable access to commercial concentrations of tuna over the long term, we cannot do business.

It is important to recognize that U.S. tuna policy is not some recent phenomenon, but is rather a well-established position based on the migratory habits of the tuna. Pursuant to this policy, U.S. vessels are not legally obligated to buy licenses to fish for tuna in areas beyond 12 nautical miles. For some time now, however, it has been our policy (and that of the State Department) for vessel owners to purchase licenses in such fishing areas, at their discretion and in appropriate circumstances. Furthermore, it is our strong preference that licenses be purchased within the context of a multilateral tuna management treaty, involving as many countries as possible. In fact, if such a treaty is in place, it has been our government's practice to make it a violation of our domestic law for a vessel owner to refuse to buy a license.^{5/} Our

^{5/} See Eastern Tropical Tuna Licensing Act of 1984; 16 U.S.C. § 972f(a)(1).

principal objective is to conclude regional licensing agreements which provide fishing access on commercially acceptable terms.

Traditionally, the most important tuna fishing area for our fleet is the Eastern Pacific Ocean between San Diego and Ecuador. Not only is this the area best known to our fishermen but it also contains the largest concentrations of yellowfin tuna, a more valuable species (because of its larger average size) as compared to skipjack tuna that predominates in the South Pacific. In addition, the Eastern Pacific fishing grounds are relatively closer to our vessels' principal buyers--the U.S. canneries in Puerto Rico and the U.S. market for canned tuna--particularly when compared with areas around Papua New Guinea and the Federated States of Micronesia. Transshipments at the boatowner's cost is required from Tinian in the Commonwealth of the Northern Marianas to American Samoa and Puerto Rico for canning.

As a consequence of this higher commercial importance, especially in the late 1970's and early 1980's, the U.S. government attempted to negotiate a new treaty in the Eastern Pacific to accommodate greater pressure for a new fishing agreement by coastal nations, particularly Mexico which was developing its own very large tuna fleet. Those discussions failed in 1979.

A new attempt for an Eastern Pacific regional tuna treaty began in 1981, this time without Mexico. On March 15, 1983, the United States, Costa Rica, and Panama signed a new Eastern

Pacific Ocean Tuna Fishing Agreement covering the region. This Agreement has yet to come into force. The United States Senate ratified the treaty in 1984 and implementing legislation was enacted by Congress in late 1984.

We view this treaty as the paradigm for other tuna management treaties. The agreement contains the following important elements:

- Covers tuna fishing in the Eastern Pacific, both within the claimed 200-mile zones of coastal nations and on the high seas.
- Calls for the licensing of tuna vessels in order to fish the entire region.
- Distributes license fee revenue among the coastal nations in proportion to the amount of tuna taken within 200-miles of each nation.
- Establishes an annual license fee of \$60 per net registered ton, which will rise to \$100 after six nations (five are needed for entry into force) join.

Mr. Chairman, these are the basic principles which make up U.S. tuna policy and which have guided U.S. negotiations with the South Pacific island nations.

A Brief Description of the U.S. Tuna Industry.

We would like to highlight several key points which we think the Committee should keep in mind in order to understand this rather complex business. First, U.S. tuna canning operations are now almost entirely centered in Puerto Rico and American Samoa. Substantial investments have been made in both locations to maintain canning facilities that are as competitive as possible with foreign producers of canned tuna.

Second, the U.S. tuna fleet is split roughly 50/50 between the South Pacific region and the more valuable traditional fishing grounds in the Eastern Tropical Pacific. All fish catches by U.S. vessels are delivered to either Puerto Rico, American Samoa, or the last remaining cannery in Southern California. The operations of the U.S. tuna fleet are important contributors to the local economies of Guam and Tinian where we conduct basing, staging and transshipment operations. Our vessels also hire fishermen from many of the island nations, contributing about \$1 million to local family incomes. Third, the U.S. tuna canning industry has been under considerable competitive pressure from imports from various Asian countries. In particular, Thailand has captured a large and growing percentage of the domestic market for canned tuna.

Finally, U.S. tuna vessels are treated as individual profit units in our business. This is not the case with other nations' fleets. Because of the depressed price for light meat tuna (a 40% decline between 1981 and 1985), boat earnings through 1986 dropped considerably. Even with monumental cost reduction efforts, we have seen a nearly 58% reduction in the number of active vessels in the fleet because of bankruptcies or forced sales. A license fee becomes a fixed cost of doing business for our vessels. Too great a fee could be the final straw for those boats operating close to or below the breakeven point. Thus, we have sought to base the fee on vessel tonnage and have it reflect as closely as possible the economic value of fishing access for the vessel.

Other nations fishing in the area use completely different methods of paying fees and assisting their fleets. The Japanese, for example, are known to combine government-to-government aid with license fee payments. Clearly, this has also been the approach of the Soviet Union with regard to its agreement with Kiribati. And almost all other countries fishing in the area take a very paternalistic approach to support of their fleets and subsidize them in some manner. Low interest loans, bank guarantees, operating subsidies, fewer regulatory requirements, lower wages, and the like are common for all but the U.S. fleet.

History of the South Pacific Treaty Negotiations

Initially, beginning in 1977, the United States Government participated in multilateral discussions toward a tuna treaty in the South Pacific. This attempt failed in 1978 when the South Pacific Forum turned down a draft treaty. Thereafter, the industry itself developed industry-to-government licensing agreements. Agreements of this type were in place between the American Tunaboat Association and Palau, Federated States of Micronesia, and Marshall Islands from 1981 to 1982; Palau, Federated States of Micronesia, and Kiribati from 1983 to 1984; and the Cook Islands, Niue, Tokelau, Tuvalu and Western Samoa from October, 1983 through December, 1984. A nine-month agreement with Papua New Guinea was reached in 1982 in anticipation of regional negotiations, which unfortunately did not occur.

In 1984, the South Pacific island nations made it clear that they preferred government-to-government talks. The current negotiations to develop a comprehensive tuna treaty began on September 12, 1984. Since then, ten rounds of negotiations led to treaty signature on April 1, 1987 in Papua New Guinea. The participating countries, besides the United States, include Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, Western Samoa, and Vanuatu. The involvement of so many countries made these negotiations more difficult than any other previous negotiations involving tuna. The industry views this treaty as critical to the future of the operations of its vessels in the region.

However, it is important to distinguish the nature of this treaty from other major multilateral tuna arrangements developed in the past. In particular, the treaties that created the Inter-American Tropical Tuna Commission and the International Commission for the Conservation of Atlantic Tunas primarily focus on research and conservation of the tuna resources covered by the agreements. The draft South Pacific treaty is more akin to the Eastern Pacific Tuna Treaty, which has conservation elements but also contains provisions for buying licenses, paying fees (which are shared among coastal nations), and enforcing treaty provisions against violators. In fact, in the South Pacific treaty negotiations, the question of fee payments has played a larger role than ever before.

The tuna industry has viewed the South Pacific treaty talks in the same manner as the Eastern Pacific treaty. Although the United States does not recognize the juridical claims of other countries over tuna, in the context of a widely accepted treaty arrangement that deals effectively with conservation on a long term basis and provides assured access to fishing grounds for reasonable license fees, differing juridical positions can be set aside.

The industry is very appreciative of the high-level commitment of the State Department to concluding this treaty. The Department's Counselor, Edward Derwinski played a very important lead role. Ambassador Ed Wolfe of the Oceans Bureau was very effective in working with the representatives of the South Pacific nations.

We urge the Committee to report the treaty favorably to the Senate for ratification as soon as possible.

Thank you for the opportunity to submit this statement.

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